

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 21, 2005

Division: Community Services

Bulk Item: YES ☐ NO ☐

Department: Social Services-Bayshore

AGENDA ITEM WORDING: Approval of agreement between Lower Keys Medical Center and Board of County Commissioners, temporary facility for Bayshore Manor residents.

ITEM BACKGROUND: This is the first time we have had to secure space for residents of Bayshore Manor due to flooding of facility.

PREVIOUS RELEVANT BOCC ACTION: N/A

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATION: Approval of contract

TOTAL COST: \$2,158.00 **BUDGETED:** Yes ☐ No ☒

COST TO COUNTY: \$2,158.00 **SOURCE OF FUNDS:** County/FEMA

REVENUE PRODUCING: Yes ☐ No ☒ **AMOUNT PER MTH** unknown **YEAR** unknown

APPROVED BY: County Atty ☒ OMB/Purchasing ☐ Risk Management ☐

Prepared By: Susan Scarlet
Print Name: Susan Scarlet, Sr, Administrator, Bayshore Manor

DEPARTMENT DIRECTOR APPROVAL: Louis Latorre
Print Name: LOUIS LATORRE

DIVISION DIRECTOR APPROVAL: Sheila Barker
Print Name: SHEILA BARKER

DOCUMENTATION: Included ☒ YES To Follow ☐ Not Required ☐

DISPOSITION: ☐ Agenda Item # ☐

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with:	<u>LKMC</u>	Contract #	<u></u>
		Effective Date:	<u>11/1/2005</u>
		Expiration Date:	<u>12/31/2005</u>

Contract Purpose/Description:
Temporary housing for residents of Bayshore Manor displaced by damage to facility from Hurricane Wilma.

Contract Manager:	<u>Susan Scarlet</u>	<u>4533</u>	<u>Bayshore Manor/Stop #8</u>
	(Name)	(Ext.)	(Department/Stop #)

for BOCC meeting on 12/21/2005 Agenda Deadline: 12/05/2005

CONTRACT COSTS

Total Dollar Value of Contract: \$ 2,158.00 Current Year Portion: \$ 0
 Budgeted? Yes ☐ No ☒ Account Codes: - - - - -
 Grant: \$ 0 - - - - -
 County Match: \$ 0 - - - - -

ADDITIONAL COSTS

Estimated Ongoing Costs: \$0____/yr For: _____
(Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Sheila Barker	11/30/05
Risk Management	12-2-05	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	M. Sluiter	12-2-05
O.M.B./Purchasing		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Salvatore Spicell	11/30/05
County Attorney	12/2/05	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	STAMPED BY LEGAL	11-22-05

Comments: _____

COMMERCIAL LEASE

THIS LEASE is made and entered into this 21st day of December 2005, by and between Key West HMA, Inc. d/b/a Lower Keys Medical Center ("Landlord") and Monroe County Board of County Commissioners [Bayshore Manor] ("Tenant").

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises known as the "Post Partum Unit" at 5900 College Road, Key West, Florida, 33040 ("Premises") for the term and upon the conditions and agreements hereinafter set forth ("Lease"). The "Effective Date" of this Lease shall be the date set forth above.

WHEREAS, On October 24, 2005, Hurricane Wilma hit the Florida Keys causing massive destruction and damage to homes and commercial buildings in the area,

WHEREAS, Bayshore Manor is a County owned assisted living facility with approximately 16 residents;

WHEREAS, As a direct result of Hurricane Wilma, Bayshore Manor was flooded necessitating the evacuation of all the residents from Bayshore Manor;

WHEREAS, prior to hurricane Wilma there was only a limited amount of available space in the Florida Keys and that availability has been severely impacted by hurricane Wilma;

WHEREAS, as a direct result of Hurricane Wilma, the residents have been temporarily housed at the local prison;

WHEREAS, Monroe County has approached the hospital regarding providing temporary, more suitable housing for its residents while necessary repairs are made to the Bayshore Manor building,

ARTICLE I. Term

The term of this Lease shall commence on the 1st day of November 2005 ("Commencement Date") and shall terminate on the 1st day of December 2005 ("Term").

ARTICLE II. Rent

During the Term, Tenant shall pay to Landlord the base rent as set forth in Schedule A. Base Rent and Additional Rent, as provided in Article III, shall be payable in monthly installments in advance without notice, demand, set off or deduction, with the first installment being due on the Commencement Date. If the Premises are occupied for a fraction of a month at the beginning or the end of the Term, Tenant shall pay a proportionate part of the applicable monthly installment.

Schedule A shall apply to this Lease.

<u>Schedule A</u>		
<u>Square Footage</u>	<u>Base Rent/Square Foot/Year</u>	<u>Monthly Rent Installment</u>
1,200	\$21.58	\$2,158.00

ARTICLE III. Use of Premises

Tenant shall use and occupy the Premises healthcare-related purposes including assisting living services exclusively and for no other purpose. Tenant shall not use or occupy the Premises in violation of law or of the Certificate of Use or Occupancy issued for the Building of which the Premises are a part, and shall immediately discontinue any use of the Premises which is declared by either any governmental authority having jurisdiction or the Landlord to be a violation of any law, code, regulation or a violation of said Certificate of Use or Occupancy. Tenant shall comply with any direction of any governmental authority having jurisdiction which shall, by reason of the nature of Tenant's use or occupancy of the Premises, impose any duty upon Tenant or Landlord with respect to the Premises or with respect to the use or occupation thereof.

Tenant shall not do nor permit to be done anything which will invalidate or increase the cost of any fire and extended coverage insurance policy covering the Building and/or property located therein, and shall comply with all rules, orders, regulations and requirements of the appropriate Fire Rating Bureau or any other organization performing a similar function. Tenant shall promptly upon demand reimburse Landlord for any additional premium charged for such policy by reason of Tenant's failure to comply with the provisions of this paragraph. Tenant shall not do or permit anything to be done in, on or about the Premises anything which would in any way obstruct or interfere with the rights of other tenants or occupants of the Building, or use or allow the Premises to be used for any immoral, unlawful or objectionable purpose, nor shall Tenant maintain or permit any nuisance or commit or suffer to be committed any waste in, on or about the Premises.

Tenant shall not dispense any drugs or medicines to persons other than Tenant's own patients. In the practice of medicine at the Premises, Tenant shall have the right to perform only such laboratory tests and diagnostic procedures which are ancillary and incidental to the care and treatment of Tenant's patients, and not for an independent profit motive. Prior to the installation and use of any diagnostic, laboratory or radiology equipment Tenant shall provide Landlord with a list of such equipment and its intended use; a list of any hazardous substances, wastes or materials, as hereinafter defined, which will be used or generated in connection with such laboratory and/or diagnostic tests; and Tenant's proposed procedures for the use, storage and disposal of any hazardous substances, wastes or materials, including but not limited to the procedure for silver recovery for any radiology equipment.

Tenant shall not cause or permit the release or disposal of any hazardous substances, wastes, or materials, or any medical, special or infectious wastes, on or about the Premises or the Building of which they are a part. Hazardous substances, wastes or

materials shall include those which are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC Section 9601 at seq; the Resource Conservation and Recovery Act, as amended, 42 USC Section 5901 at seq; the Toxic Substances Control Act, as amended, 15 USC Section 2801 at seq; the medical waste regulations which have been promulgated by the state in which the Premises are located; and as further set forth in any state or local laws and ordinances, and their corresponding regulations. Tenant shall comply with all rules and policies set by Landlord, and with all federal, state and local laws, regulations and ordinances which govern the use, storage, handling and disposal of hazardous substances, wastes or materials and medical, special or infectious wastes. Tenant shall indemnify, defend and hold Landlord harmless from and against any claims or liability arising out of or connected with Tenant's failure to comply with the terms of this Article IV, which terms shall survive the expiration or earlier termination of this Lease.

Landlord may, at its option, terminate this Lease in the event Tenant engages in a prohibited use and fails to cure such violation within thirty (30) days following Tenant's receipt of written notice from Landlord.

ARTICLE IV. Building Services

1. All utilities for the Premises as well as all utilities for the common areas of the Building and maintenance services will be paid by Landlord. Heat and air-conditioning required to be furnished by Landlord will be furnished whenever the same shall, in Landlord's reasonable judgement, be required for Tenant's comfortable use and occupancy of the Premises during reasonable business hours.

If Tenant requires or utilizes more water or electric power than is considered reasonable or normal by Landlord, Landlord may reasonably determine and require Tenant to pay as Additional Rent, the cost incurred as a result of such additional usage ("Surcharge"). Tenant agrees to pay all separately metered utilities required and used by Tenant in the Premises. Landlord reserves the privilege of stopping any or all of such services in case of accident or breakdown, or for the purpose of making alterations, repairs or improvements, and shall not be liable for the failure to furnish or delay in furnishing any or all of such services when same is caused by or is the result of strikes, labor disputes, labor, fuel or material scarcity, or governmental or other lawful regulations or requirements, or the failure of any corporation, firm or person with whom the Landlord may contract for any such service, or for any service incident thereto, to furnish same, or is due to any cause other than the gross negligence of the Landlord; and the failure to furnish any of such services in such event shall not be deemed or construed as in eviction or relieve Tenant from the performance of any of the obligations imposed upon Tenant by the Lease. Landlord shall not be responsible to the Tenant for loss of property in or from the Premises, or for any damage done to furniture, furnishings or effects therein, however occurring, except where such damages occur through the gross negligence of Landlord; nor shall Landlord be responsible should any equipment or machinery break down or for any cause cease to function properly on account of any such interruption of service. Tenant shall be solely responsible for and shall promptly pay all charges for telephone service.

2. At all times during the initial Term or any extension thereof, Landlord, at no cost or expense to Tenant, shall promptly and in a workmanlike manner perform all maintenance and make all repairs and replacements required, in the opinion of the Landlord, to keep the Premises and the Building in good order, condition and repair, except if the need for such maintenance, repairs or replacements is caused by the fault or negligence of Tenant (reasonable wear and tear excepted), in which event Landlord will perform the maintenance, repairs or replacements required and charge Tenant therefore, such charges being due in full upon Tenant being billed for same.

ARTICLE V. Alterations

Tenant may not make any changes, additions, alterations, improvements or additions to the Premises or attach or affix any articles thereto without Landlord's prior written consent. All alterations, additions or improvements which may be made upon the Premises by Landlord or Tenant (except unattached trade fixtures and office furniture and equipment owned by Tenant) shall not be removed by Tenant, but shall become and remain the property of Landlord. All alterations, improvements and additions to the Premises (as permitted by Landlord) shall be done only by Landlord or contractors or mechanics approved by Landlord, and shall be at Tenant's expense and at such times and in such manner as Landlord may approve unless otherwise agreed to in writing. Any mechanics' or materialmen's lien for which Landlord has received a notice of intent to file or which has been filed against the Premises or the Building arising out of work done for, or materials furnished to Tenant, shall be discharged, bonded over, or otherwise satisfied by Tenant within ten (10) days following the earlier of the date Landlord receives (1) notice of intent to file a lien or (2) notice that the lien has been filed. If Tenant fails to discharge, bond over, or otherwise satisfy any such lien, Landlord may do so at Tenant's expense, and the amount expended by Landlord, including reasonable attorneys' fees, shall be paid by Tenant within ten (10) days following Tenant's receipt of a bill from Landlord.

ARTICLE VI. Damage to Property - Injury to Persons

Tenant shall and hereby does indemnify and hold Landlord harmless from and against any and all claims arising from 1) Tenant's use of the Premises or the conduct of his business or profession; 2) any activity, work or thing done, permitted or suffered by the Tenant in or about the Premises; 3) any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease; or 4) any negligent acts or omissions of Tenant, or of Tenant's agents or employees. Tenant shall and hereby does further indemnify, defend and hold Landlord harmless from and against all costs, attorneys' fees, expenses and liabilities incurred in connection with any such claim or any action or proceeding brought thereon. In case any action or proceeding be brought against the Landlord by reason of such claim, Tenant upon notice from Landlord, shall defend same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause

other than Landlord's gross negligence, and Tenant hereby waives all claims in respect thereof against Landlord.

During the term hereof Tenant shall maintain public liability insurance on the Premises of at least \$1,000,000 per occurrence, \$3,000,000 aggregate. As evidence thereof, on or before the Commencement Date, Tenant shall provide to Landlord Certificates of Insurance evidencing such coverage during the Term.

Neither Landlord nor its agents shall be liable for any damage to property entrusted to employees of the Building, nor for loss or damage to any property by theft or otherwise, nor for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Building or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface, or from any other place or resulting from dampness or any other cause whatsoever, unless caused by or due to the gross negligence of Landlord, its agents, servants or employees. Neither Landlord nor its agents shall be liable for any latent defect in the Premises or in the Building. Tenant shall give prompt notice to Landlord in case of fire or accidents in the Premises or Building or of defects therein or in the fixtures or equipment. Tenant hereby acknowledges that Landlord shall not be liable for any interruption to Tenant's business, and that Tenant shall obtain Business Interruption insurance coverage should Tenant desire to have coverage for such risk.

ARTICLE VII. Assignment and Subletting

Tenant shall not, either voluntarily or by operation of law, sell, hypothecate, assign or transfer this Lease, or sublet the Premises or any part thereof, or permit the Premises or any part thereof to be occupied by anyone other than Tenant or Tenant's employees, without the prior written consent of Landlord. Any sale, assignment, mortgage transfer or subletting of this Lease which is not in compliance with the provisions of this Article VIII shall be null and void and of no effect and shall constitute a default hereunder. The consent by Landlord to an assignment or subletting shall not be construed as relieving Tenant from obtaining the express written consent of Landlord to any further assignment or subletting. Landlord's consent to any assignment or subletting shall not release Tenant from its primary liability under the Lease.

ARTICLE VIII. Damage or Destruction

If the Premises are damaged by fire or other casualty (collectively "Casualty"), the damage shall be repaired by and at the expense of Landlord, provided such repairs can, in Landlord's opinion, be made within sixty (60) days after the occurrence of such Casualty without the payment of overtime or other premiums. Until such repairs are made, the Rent shall be abated in proportion to the part of the Premises which is unusable by Tenant in the conduct of his or her practice of medicine. However, there shall be no abatement of Rent by reason of any portion of the Premises being unusable for a period equal to one day or less, or if the Casualty is due to the negligent acts or omissions of Tenant or Tenant's employees.

If such repairs cannot, in Landlord's opinion, be made within sixty (60) days, Landlord may, at its option, make them within a reasonable time, not to exceed one hundred twenty (120) days; and in such event this Lease shall continue in effect and the Rent shall be apportioned in the manner provided above. Landlord's election to make such repairs must be evidenced by written notice to Tenant within thirty (30) days after the occurrence of the damage.

If Landlord does not so elect to make such repairs which cannot be made within sixty (60) days, then either party may, by written notice to the other, cancel this Lease as of the date of the Casualty. A total destruction of the Building in which the Premises are located shall automatically terminate the Lease.

ARTICLE IX. Eminent Domain

If the whole of the Premises or so much thereof as to render the balance unusable by Tenant shall be taken under power of eminent domain, this Lease shall automatically terminate as of the date of such condemnation, together with any and all rights of Tenant existing or hereafter arising in or to the same or any part thereof, provided, however, that nothing contained herein shall be deemed to give Landlord any interest in or to require Tenant to assign to Landlord any award made to Tenant for: 1) the taking of personal property and fixtures belonging to Tenant; 2) interruption of or damage to Tenant's business or profession; 3) cost of relocation expenses incurred by Tenant; and 4) Tenant's unamortized cost of leasehold improvements. In the event of a partial taking which does not result in a termination of the Lease, the Rent shall be apportioned according to the part of the Premises remaining usable by Tenant. Landlord may without any obligation or liability to Tenant stipulate with any condemning authority for a judgement of condemnation without the necessity of a formal suit or judgement of condemnation, and the date of taking under this clause shall then be deemed the date agreed to under the terms of said agreement for stipulation.

ARTICLE X. Defaults

The occurrence of any of the following shall constitute a material default and breach of the Lease:

1. The vacating or abandonment of the Premises by Tenant;
2. A failure by Tenant to pay the Rent or to make any other payment required to be made by Tenant hereunder, when due, or within ten (10) days thereafter;
3. A failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant;
4. The making by Tenant of any general assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or the filing

of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

Tenant shall not be in default of any obligation provided for herein, except with reference to the payment of Rent, unless and until Tenant has failed to perform such obligation within thirty (30) days after written notice to Tenant from Landlord specifying wherein Tenant has failed to perform such obligation. In the event Tenant commits an act of default, Landlord may exercise one or more of the following described remedies, in addition to all other rights and remedies at law or in equity whether or not stated in this Lease.

Landlord shall not be deemed to be in default in the performance of any obligation required to be performed by it hereunder and until it has failed to perform such obligation within thirty (30) days after written notice by Tenant to Landlord specifying wherein Landlord has failed to perform such obligation. Provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be deemed to be in default if it shall commence such performance within such thirty (30) day period and thereafter diligently prosecute the same to completion.

ARTICLE XI. Remedies

1. Landlord can continue this Lease in full force and effect and shall have the right to collect Rent when due. During the period Tenant is in default, Landlord can re-enter the Premises with or without legal process and re-let them, or any part of them, to third parties for Tenant's account, and Tenant hereby expressly waives any and all claims for damages by reason of such re-entry as well as any and all claims for damages by reason of any distress warrants or proceedings by way of sequestration which Lessor may employ to recover said rents. Tenant shall be liable immediately to Landlord for all costs Landlord incurs in re-letting the Premises, including, without limitation, brokers' commissions, expenses of remodeling the Premises required by the re-letting, and like costs. Re-letting can be for a period shorter or longer than the remaining Term of this Lease, and in no event shall Landlord be under any obligation to re-let the Premises. On the dates such rent is due, Tenant shall pay to Landlord a sum equal to the Rent due under this Lease, less the rent Landlord receives from any re-letting. No act by Landlord allowed by this paragraph shall terminate the Lease unless Landlord notifies Tenant in writing that Landlord elects to terminate the Lease.

2. Landlord can terminate the Lease at any time. Upon termination, Landlord shall have the right to collect an amount equal to: all expenses incurred by Landlord in recovering possession of the Premises, including reasonable attorneys' fees; all

reasonable costs and charges for the care of the Premises while vacant; all renovation costs incurred in connection with the preparation of the Premises for a new tenant; and an amount by which the entire Rent for the remainder of the Term exceeds the loss of Rent that Tenant proves could have been reasonably avoided.

3. Should any of these remedies, or any portion thereof, not be permitted by the laws of the state in which the Building is situated, then such remedy or portion thereof shall be considered deleted and unenforceable, and the remaining remedies or portions thereof shall be and remain in full force and effect, and Landlord may avail itself of these as well as any other remedies or damages allowed by law. All rights, options and remedies of Landlord stated herein or elsewhere by law or in equity shall be deemed cumulative and not exclusive of one another.

ARTICLE XII. Rules and Regulations

Tenant shall observe faithfully and comply strictly with the Rules and Regulations set forth on the final page of this Lease and made a part hereof, and such other rules and regulations as Landlord may from time to time reasonably adopt for the safety, care and cleanliness of the Building or the preservation of good order therein. Landlord shall not be liable to Tenant for violation of any such Rules and Regulations, or for the breach of any covenant or condition in any lease by any other tenant in the Building. By the signing of this Lease, Tenant acknowledges that Tenant has read and has agreed to comply with such Rules and Regulations.

ARTICLE XIII. End of Term

At the termination of this Lease or upon termination for any reason, Tenant agrees that it shall at its sole cost and expense, promptly remove any and all of its personal property located at the premises subject to this Lease, including, without limitation, all equipment including linear accelerator, supplies, inventory and medical waste, such that the premises shall be in a "broom-clean" condition following such removal, provided however, that notwithstanding any provision herein to the contrary, the Tenant shall not be required to remove any fixtures on the premises, including, without limitation the vault located hereon.

If not then in default, Tenant shall have the right prior to said termination to remove any equipment, furniture, trade fixtures or other personal property placed in the Premises by Tenant, provided that Tenant promptly repairs any damage to the Premises caused by such removal.

There shall be no holding over by Tenant after the expiration of this Lease.

ARTICLE XIV. Transfer of Landlord's Interest

In the event of any transfer or transfers of Landlord's interest in the Premises or in the real property of which the Premises are a part, the transferor shall be automatically

relieved of any and all obligations and liabilities on the part of Landlord accruing from and after the date of such transfer.

ARTICLE XV. Estoppel Certificate, Attornment, and Non-Disturbance

Within ten (10) days following receipt of Landlord's written request, Tenant shall deliver, executed in recordable form, a declaration to any person designated by Landlord: (a) ratifying this Lease; (b) stating the commencement and termination dates of the Lease; and (c) certifying (i) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writings as shall be stated); (ii) that all conditions under this Lease to be performed by Landlord have been satisfied (stating exceptions, if any); (iii) that no defenses, credits or offsets against the enforcement of this Lease by Landlord exist (or stating those claimed); (iv) the sum of advance Rent, if any, paid by Tenant; (v) the date to which Rent has been paid; (vi) the amount of security deposited with Landlord, and such other information as Landlord reasonably requires. Persons receiving such statements shall be entitled to rely upon them.

Tenant shall, in the event of a sale or assignment of Landlord's interest in the Premises or the Building or this Lease, or if the Premises or the Building comes into the hands of a mortgagee, ground lessor or any other person whether because of a mortgage foreclosure, exercise of a power of sale as under a mortgage, termination of the ground lease, or otherwise, attorn to the purchaser or such mortgagee or other person and recognize the same as Landlord hereunder, provided such purchaser, mortgagee or other person shall warrant and defend Tenant in the quiet enjoyment and possession of the Premises for the duration of the Term, subject to the terms and conditions of this Lease. Tenant shall execute, at Landlord's request, any reasonable attornment agreement required by any mortgagee, ground lessor or other such person to be executed, containing such provisions as such mortgagee, ground lessor or other person requires.

Except as otherwise stated herein, this Lease shall be subordinate and inferior at all times to the lien of any mortgage and to the lien of any deed of trust or other method of financing or refinancing now or hereafter existing against all or a part of the real property upon which the Building is located, and to all renewals, modifications, replacements, consolidations and extensions thereof. Tenant shall execute and deliver all documents requested by any mortgagee or security holder to effect such subordination. If Tenant fails to execute and deliver any such document requested by a mortgagee or security holder to effect such subordination, Landlord is hereby authorized to execute such documents and take such other reasonable steps as are necessary to effect such subordination on behalf of Tenant as Tenant's duly authorized irrevocable agent and attorney-in-fact, it being agreed that such power is one coupled with an interest. Tenant's failure to execute and deliver instruments or certificate provided for in this Article XVI within fourteen (14) days after the receipt by Tenant of a written request shall constitute a default under this Lease.

ARTICLE XVI. Notices

Any notice required or permitted to be given hereunder or other communication may be given by (1) hand delivery and shall be deemed given on the date of delivery; (2)

registered or certified mail and shall be deemed given the third day following the date of mailing; or (3) overnight delivery and shall be deemed given the following day.

- (a) If to Landlord Lower Keys Medical Center
5900 College Road
Key West, Florida 33040
Attention: Administration
- (b) If to Tenant: Thomas L. Willi, County Administrator
1100 Simonton Street
Key West, FL 33040
- With a copy to:
Richard Collins, County Attorney
PO Box 1026
Key West, FL 33040

ARTICLE XVII. Miscellaneous Provisions

(I) Attorney - Attorneys' Fees. In the event that suit is brought by either party against the other for a breach or default under the terms of this Lease, the prevailing party shall be entitled to reasonable attorneys' fees, which sum shall be filed by the court.

(ii) Time of Essence. Time is of the essence with respect to the performance of every provision of this Lease.

(iii) Headings. The article captions contained in this Lease are for convenience only and shall not be considered in the construction or interpretation of any provision hereof.

(iv) Incorporation of Prior Agreements; Amendments. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Lease shall be amended or added to, except by an agreement in writing signed by the parties hereto or their respective successors in interest.

(v) Waiver. No waiver by Landlord of any provision of this Lease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act of Tenant, whether or not similar to the act so consented to or approved. No act or thing done by Landlord or Landlord's agents during the Term of this Lease shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such a surrender shall be valid unless in writing and signed by Landlord. The subsequent acceptance of

Rent shall not be deemed a waiver of any preceding breach by Tenant of any term, covenant or condition of the Lease, other than the failure of Tenant to pay the particular Rent so accepted.

(vi) Quiet Enjoyment. Landlord shall warrant and defend Tenant in the quiet enjoyment and possession of the Premises throughout the Term, subject to the terms and conditions of the Lease.

(vii) Binding Effect. This Lease shall be binding upon, and inure to the benefit of the parties hereto, their heirs, successors, assigns, executors and administrators. However, nothing in this Article shall be deemed to amend the provisions of Article VIII on Assignment and Subletting.

(viii) Legislative Changes. In the event that changes occur in government regulations or third party reimbursement policies, or the interpretation thereof, which adversely affect the method of operation outlined herein, the method of payment for services rendered hereunder, or revenues expected to be available from same, the parties agree to cooperate in making revisions to this agreement in order to comply with such new policies or interpretations, and preserve the economic viability of this agreement. A party may request such renegotiation by providing thirty (30) days written notice to the other at any time during the term of this agreement. If the parties fail to agree to such revisions during the thirty (30) day notice period, then the party providing notice pursuant to this section may terminate this agreement effective immediately following the expiration of the thirty (30) day period.

ARTICLE XVIII. Condition Precedent

Notwithstanding anything contained herein to the contrary, this Lease shall not be effective or legally binding upon the parties hereto until it has been reviewed and approved in writing, in accordance with Landlord's approval guidelines, by Landlord's Executive Vice President and Landlord's General Counsel.

IN WITNESS WHEREOF, the parties have duly executed this Lease the day and year first above written.

Witness:

Tenant:

By: _____

Witness:

Landlord:

Bina B. Alfano

By: *[Signature]*

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

[Signature]
SUZANNE A. HUTTON

ASSISTANT COUNTY ATTORNEY

Rules and Regulations

1. Conduct Tenant shall not conduct its practice or business, or advertise such business, profession or activities of tenant conducted in the Premises in any manner which violates local, state or federal laws or regulations.
2. Hallways and Stairways Tenant shall not obstruct or use for storage, or for any purpose other than ingress and egress, the sidewalks, entrance, passages, courts, corridors, vestibules, halls, elevators and stairways of the Building.
3. Nuisances Tenant shall not make or permit any noise, odor or act that is objectionable to other occupants of the Building to emanate from the Premises, and shall not create or maintain a nuisance thereon.
4. Musical Instruments, etc. Tenant shall not install or operate any phonograph, musical instrument, radio receiver or similar device in the Building in such manner as to disturb or annoy other tenants of the Building or the neighborhood. Tenant shall not install any antennae, aerial wires or other equipment outside the Building without the prior written approval of Landlord.
5. Locks No additional locks or bolts of any kind shall be placed upon any of the doors or windows by Tenant, nor shall any changes be made in existing locks or the mechanism thereof. Tenant must upon the termination of its tenancy restore to Landlord all keys to the Premises and toilet rooms either furnished to or otherwise procured by Tenant, and in the event of loss of any keys so furnished, Tenant shall pay to Lessor the cost thereof.
6. Obstructing Light, Damage The sash doors, sashes, window glass doors, lights and skylights that reflect or admit light into the halls or other places of the Building shall not be covered or obstructed. The toilets and urinals shall not be used for any purpose other than those for which they were intended and constructed, and no rubbish, newspapers or other substance of any kind shall be thrown into them. Waste and excessive or unusual use of water shall not be allowed. Tenant shall not mark, drive nails, screw or drill into, paint nor in any way deface the walls, ceilings, partitions, floors, wood, stone or iron work. The expense of any breakage, stoppage or damage resulting from a violation of this rule by Tenant shall be borne by Tenant. Tenant shall be permitted to hang pictures on office walls, but it must be done in a workmanlike manner and in such a way as not to damage or deface such walls.
7. Wiring Electrical wiring of every kind shall be introduced and connected only as directed by Landlord, and no boring or cutting of wires will be allowed except with the consent of Landlord. The location of the telephone, call boxes, etc., shall be subject to the approval of Landlord.
8. Equipment, Moving, Furniture, etc. Landlord shall prescribe the weight, size and position of all fixtures, equipment and other property brought into the Building,

and the times of moving which must be done under the supervision of Landlord. Landlord will not be responsible for any loss of or damage to any such equipment or property from any cause, and all damage done in the Building by moving or maintaining any such property shall be repaired at the expense of Tenant. All equipment shall be installed as required by law, and in accordance with and subject to written approval received on written application of Tenant.

9. Requirements of Tenant The requirements of Tenant will be attended to only upon application at the office of Landlord. Employees shall not perform any work nor do anything outside their regular duties unless under special instructions from Landlord. No employees shall admit any person, Tenant or otherwise, to any other office without instruction from the office of Landlord. All janitorial services personnel, guards or any outside contractors employed by Tenant shall be subject to the regulations and control of Landlord, but shall not act as an agent or servant of Landlord.
10. Medical and Hazardous Wastes Tenant shall comply with all policies established from time to time by Landlord regarding the storage and disposal of hazardous substances, wastes and materials, and medical, special or infectious wastes.
11. Access to Building Any person entering or leaving the Building may be questioned by Building security regarding his/her business in the Building, and may be required to sign in and out. Anyone who fails to provide a satisfactory reason for being in the Building may be excluded.
12. Vehicles, Animals, Refuse Tenant shall not allow anything to be placed on the outside window ledges of the Premises or to be thrown out of the windows of the Building. No bicycle or other vehicle, and no animal, shall be brought into the offices, halls, corridors, elevators or any other parts of the Building, by Tenant or the agents, employees or invited employees of Tenant, and Tenant shall not place or permit to be placed any obstruction or refuse in any public part of the Building.
13. Equipment Defects Tenant shall give Landlord prompt notice of any accidents to or defects in the water pipes, gas pipes, electric lights and fixtures, heating apparatus, or any other service equipment.
14. Parking Unless otherwise specified by Landlord, Tenant and its employees may park automobiles only in spaces designated by Landlord for such purpose and shall in no event park in spaces reserved for public parking. Tenant agrees that Landlord assumes no responsibility of any kind whatsoever in reference to such automobile parking area or the use thereof by Tenant or its agents or employees.
15. Conservation and Security Tenant will see that all windows and doors are securely locked, and faucets and electric light switches turned off, before leaving the Building.

Addendum I

Article I. Services provided by Hospital

The following shall be included in the lease rate by Hospital:

1. Housing for approximately 16 residents.
2. Linens for beds.
3. Towels and washcloths.
4. Three meals daily – breakfast, lunch and dinner.
5. Cleaning of area.

Article B. Services Provided by Tenant

Tenant is required to provide the following:

1. Staff required providing care and services to residents.
2. All medications and other healthcare services to residents.
3. All services provided to residents previously provided to residents at the Bayshore Manor location.

Article C. Excluded Services

Hospital will not provide any staff for care of Tenant's residents. Hospital will not provide any services other than those identified in Article A.

Article D. Rent Prorated

Hospital will agree to prorate rent based upon the number of days Post Partum unit is occupied by Tenant.

Tenant


Landlord

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:


SUZANNE A. HUTTON

ASSISTANT COUNTY ATTORNEY

Date

11/22/05